

Town of Acton

2/8/10

Application for a Special Permit

3

To The

Board of Selectmen

Please type or print your application.

Indicate the special permit/s requested. The fee for a Special Permit is \$250 unless otherwise noted.

Recreation	Nursing Home	<u>Restaurant</u>
Hotel, Inn or Motel	Combined Business & Dwelling	Lodge or Club
Veterinary Care	Commercial Kennel	Commercial Recreation
Commercial & Trade School	Amusement Facility	Freestanding Sign
Warehouse	Mini-Warehouse	Heating Fuel Sales/Service
Light Manufacturing	Scientific Research/Development/Production	
Reduced Parking Fee = \$100	Drive-Up Bank Fee = \$1000	Service Station Fee = \$1000

If this application is made concurrently with a site plan application, then the fee will be \$100 in all cases.

APPLICANT

Name & Address

Po's Barbecue, LLC
11 Forest Road
Acton, MA 01720
Telephone

978-273-0008

OWNER

Name & Address

Acton Woods Associates Limited Partnership
c/o Cres Development Company, Inc.
50 Salem Street
Lynnfield, MA 01940

Telephone

David Stone 781-246-3860

SITE

Location and Street Address of the Property

624 Main Street (Store 16, Acton Woods Plaza)

Tax Map & Parcel Number - D4-28

Area of Lot ac.

Zoning District - Limited Business

If any other permits or site plans have been
granted for the property, give the file numbers: See Addendum A attached.

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Twelve (12) completed copies of this application and supporting materials including plan sheets, if any, are required at the time of submission. A certified abutters list taken from the most recent town tax list and certified by the Town Assessor must be included with this application. At a minimum, a 1"=1200' location map must be provided with each copy of the application showing the subject site in relation to other lots, roads, and natural features. Sufficient supporting information must be provided to fully explain the purpose and plans of the applicant -- attach additional sheets and plans as necessary. The Board may require additional information as it deems necessary. Each copy of any plan sheets shall be folded so that it will fit neatly into a letter sized file folder.

ADDENDUM A TO APPLICATION FOR A SPECIAL PERMIT

Other permits or site plans that have been granted for the property:

1. Liquor License No. 60001 issued to Po's Barbecue, LLC.
2. Common Victualler License No. 5 issued to Po's Barbecue, LLC.
3. Site Plan Special Permit #3/9/83-230, as amended in connection with Special Use Permit #11/24/91-335.
4. Board of Health Permit No. 09-78MR issued for the installation of a grease trap and approval for variance dated September 29, 2009 in connection with said Permit.

This application is submitted for the purpose of expanding the Applicant's seating from ten (10), which is permitted pursuant to Section 3.5.5 of the Zoning By-Law, to 19 seats. The seating is limited to 19 seats based upon the capacity of the septic system serving the Acton Woods Plaza generally. Attached is the original Site Plan Special Permit granted by the Town with respect to the Acton Woods Plaza and a subsequent amendment to said Decision addressing the issue of "restaurant use" of the premises.

Also submitted with this Application are plans showing the restaurant with ten seats and the expansion to 19 seats. The facility can easily support 19 seats as depicted on the enclosed plan.

Po's Barbecue, LLC,
Applicant

By: 

Po P. Pai, Manager



NANCY H. BANKS
TOWN MANAGER

TOWN OF ACTON

TOWN HALL

472 MAIN STREET

ACTON, MASSACHUSETTS 01720

TELEPHONE (617) 263-2761

BOARD OF SELECTMEN

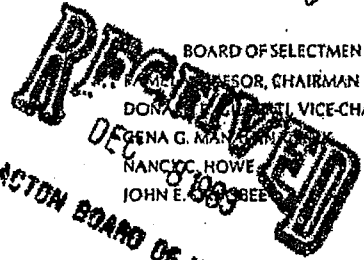
WILLIAM J. BROWN, CHAIRMAN

DONALD J. BROWN, VICE-CHAIRMAN

GENA G. MANLY

NANCY C. HOWE

JOHN E. COBB



ACTON BOARD OF HEALTH

RECEIVED & FILED

December 7, 1983

DATE 12-8-83

Prendergast Development Corporation
300 Old Pickard Road
Concord, Massachusetts 01742

Lynette R. Lussier
TOWN CLERK, ACTON

RE: SITE PLAN #3/9/83-230 - PRENDERGAST DEVELOPMENT CORPORATION
624-650 MAIN STREET, ACTON, MASS
NW INTERSECTION ROUTES 2A & 27

Gentlemen:

Under the provisions of Section VIII of the Zoning Bylaw of the Town of Acton, the Board of Selectmen, at its regular meeting held on December 7, 1983, voted to approve Site Development Plan #3/9/83-230 for Prendergast Development Corporation, 300 Old Pickard Road, Concord, Massachusetts on Lot A, 624-650 Main Street, Acton, Massachusetts, NW Intersection of Routes 2A & 27 and as shown on (1) Plan of Land in Acton, Massachusetts, recorded with the Middlesex Registry of Deeds Book #4107, Page 503, Approval under the Subdivision Control Law not required, dated March 27, 1980, signed by the Acton Planning Board; (2) L1, Parking Layout by Fuller Design, 260 Summer Street, Boston; (3) L2, Limits of Work by Fuller Design; (4) L3, Site Details by Fuller Design; (5) L4, Site Plan by Fuller Design; (6) L5, Drainage Areas by Fuller Design; (7) L6, Septic Details by Fuller Design; (8) L7, Septic Details by Fuller Design; (9) L8, Site Plan of Land, existing conditions, by Fuller Design; (10) L9, Planting Plan; (11) A1, Building Elevations by Fuller Design; (12) Site Plan of Land in Acton by Schofield Brothers, Inc., 1071 Worcester Road, Framingham, Mass.; (13) Nashoba Brook Drainage Basin Map by Groundwater Associates, Inc., Arlington, Massachusetts; (14) Site Evaluation of Acton Woods by Groundwater Associates, Inc., Arlington, Massachusetts dated October 1983; (15) Appendix containing BSC Engineering DEQE Report, IEP DEQE Report, Drainage Calculations and Cut & Fill Calculations; (16) Surficial Geology by Groundwater Associates, Arlington, Massachusetts dated September, 1983; (17) Traffic Impact Analysis dated April 1982 and Addendum #2 to Traffic Impact Analysis dated August 9, 1983, all submitted to this office by Prendergast Development, and all known as Site Development Plan 3/9/83-230, subject to the following conditions:

1. Prior to the issuance of a building permit or the start of any work on the site, the petitioner shall submit a revised site plan to the Building Commissioner for written approval. That revised plan shall incorporate the following corrections, alterations, revisions or additional information:

A. Petitioner shall install and maintain up to four (4) monitoring wells and at least three (3) stream sampling points (quantity and location to be determined by the Board of Health). Petitioner shall retain a testing laboratory (approved by DEQE) to obtain and analyze samples from each of the designated locations on a semi-annual basis (one such sampling to be taken in August of each year). Samples shall be tested for coliform density, chloride, color, hardness, iron, manganese, nitrate, odor, pH, turbidity, sodium and conductivity as a minimum and the results of each testing shall be submitted to the Board of Health for written approval.

B. The traffic impact analysis submitted in conjunction with this site plan has indicated that certain safety and convenience improvements are necessary with respect to the adjoining public ways. Specifically, the Route 2A pavement will require widening on the westerly side of Route 27 intersection to provide an additional lane for the left turn movement into the locus and the signalization (and possibly the geometry) of the Route 2A/27 intersection will need upgrading. In order to accomplish the implementation of the above the petitioner shall:

1. Cause the design and construction of the pavement widening on the westerly side of the Route 2A/27 intersection, such design and construction shall be subject to the approval of the Engineering Department and completed at the petitioner's expense and prior to occupancy of the premises.

2. Deposit with the Town of Acton the sum of \$30,000 to be expended by the Town for the design costs associated with upgrading the geometry and signalization of the intersection. The costs of this design shall not exceed \$30,000 to the petitioner and any monies not expended within two (2) years of the date of issuance of the building permit for the project shall be returned to the petitioner.

C. Obtain all necessary approvals from the Board of Health.

D. Obtain all necessary approvals from the Conservation Commission under the Wetlands Protection Act and the Town of Acton Wetlands Bylaw.

E. Obtain the necessary modification of condition #1 of the Board of Appeals Flood Plain Special Permit (Hearing #82-17) which required a substantial start under the permit by 3/31/83. Failing such a modification, obtain the necessary approval(s) from the Board of Appeals for proposed work within the Flood Plain District.

F. Consult with the Fire Chief and obtain his written approval regarding the following areas of concern:

1. Provide a full fire suppression system (sprinkler), alarm and notification system satisfactory to the Fire Chief and provide the Fire Chief with whatever assurances he deems appropriate to insure proper access and fire protection.
2. Designate and post the partial lanes shown at the rear of the buildings as fire lanes. Also designate and post access walks to the front of the structures as fire lanes. (Petitioner is cautioned that no dumpsters will be allowed in the fire lanes.)
3. Review any areas of concern to the Fire Chief with respect to access into and turning radii within the site for fire apparatus.
4. Provide on-site fire hydrants in appropriate quantity and locations as determined by the Fire Chief.

G. Submit copies of appropriate curb cut permit(s) from the Mass DPW.

H. From the information submitted it has been assumed that only dry goods stores are intended for the locus. It is to be clearly understood that no "wet" uses such as restaurants, markets, laundromats, barber shops, beauty salons, etc. will be acceptable (from either a septic design, parking or potential pollution standpoint).

I. Consult with the Superintendent of Buildings and Grounds regarding minor modifications and additional information to be incorporated into the landscaping plan. Obtain his written approval of appropriate revisions.

J. Modify the design of protection at the top of the retaining wall in the northeast corner of the lot to incorporate a railing or other suitable pedestrian barrier consistent with requirements of the State Building Code.

K. Submit construction details of proposed slotted drains for review and approval of the Town Engineer.

L. Modify the storm drainage system to provide an MDC gas trap at the last structure in the system before the outfall into the drainage ditch.

M. Submit construction details of the outfall pipe into the Flood Plain for review and approval.

N. Submit construction details of the outlet structure for review and approval.

O. Provide rip-rap at the outfall of drainage structures.

P. Provide bituminous curbing at the perimeter of all pavement and make necessary corrections in grading and/or storm drainage system to insure that all runoff is directed through the MDC gas trap required in paragraph "L" above.

Q. Provide additional spot elevations to adequately define pavement pitch and detention pond construction.

R. Submit a plan of proposed erosion and siltation control measures to the Conservation Commission for written approval. Include said approval plan with revised site plan.

S. Submit a written proposal of procedures and schedule for maintenance of the drainage retention basin to the Board of Selectmen for written approval.

T. Submit an exterior lighting layout and distribution plan for review and approval. Consideration should be given to any intended lighting of the northeasterly parking area and the rear of the building. Arrange lighting to minimize glare and light spilling over to the abutting properties (including adjacent roadways). Where appropriate, shield the luminaire, allowing a maximum angle of

cutoff of 76 degrees, provided that the angle of cutoff intersects the ground at a point within the site.

U. Revise parking calculations to reflect appropriate computation for bank parking requirements (vs. retail) or clearly indicate that "retail" computation for the entire complex results in the most conservative (largest) requirement.

V. Submit a statement regarding intended method of snow removal and disposal or clearly indicate intended storage area(s) on the site.

W. Define wetlands clearly and completely on the plan.

X. Substitute wood guard rail for proposed metal guard rail at embankments behind buildings.

Y. Clearly show intended location of trash receptacles on the site or submit statement of proposed method of collection.

Z. Submit statement explaining how deliveries will be made to the businesses on the site and where delivery trucks will be parked.

ZZ. Review of cut and fill calculations for the proposed development indicate a nearly balanced site; however, it is observed that a major portion of the material on the site is loam which the petitioner may wish to replace with gravel. Petitioner shall submit a statement in this regard to the Board of Selectmen for review including total quantity of material expected to leave the confines of the lot. Upon receipt and review the Board of Selectmen will determine whether quantities are sufficient to warrant restrictions or controls on method of removal.

2. In order to protect the Flood Plain from unauthorized encroachment, the petitioner shall have a registered land surveyor stake out the precise location of the Flood Plain at 10 to 20 foot intervals (depending on topography and intended closeness of construction) before any work is commenced on the locus.

3. Prior to the start of any work on the site petitioner shall have a registered land surveyor stake out property lines - especially in the vicinity of retaining walls. Upon completion of the work, and prior to occupancy of any of the buildings, petitioner shall submit as-built plans certifying the actual location of retaining walls as they were constructed.

4. There shall be no underground storage of fuel.
5. There shall be no use of de-icing chemicals (including calcium) on this property.
6. There shall be no storage of chemicals anywhere on the site unless they are registered with the Board of Health (in a form suitable to the Board of Health) and confined within a controlled area(s) acceptable to the Board of Health. Said area(s) shall be designed to prevent penetration of chemicals into the groundwater in the event of an accident or spill. Any registration of chemicals with the Board of Health shall include a plan by the petitioner, acceptable to the Board of Health, which clearly specifies (1) how and when the Board of Health will be notified if any accidents or spills occur, and (2) proposed method of clean-up and disposal.
7. Prior to the issuance of a building permit or the start of any work on the site, the proposed design required in #6 (or an appropriate statement that no chemicals are being stored) shall be submitted to the Board of Health for written approval.
8. Petitioner shall annually submit (on the anniversary date of this decision) an affidavit to the Board of Selectmen that the applicable conditions of #6 above are being met or that no chemical storage is taking place on the site. Failure of the petitioner to comply with this requirement shall constitute an immediate and complete revocation of this Site Plan Special Permit. Such revocation shall not become effective until 30 days have elapsed, without the filing of such affidavit, after the petitioner's receipt of notice from the Board of Selectmen notifying the petitioner that such an affidavit was not filed as required under this paragraph 6.
9. All abandoned wells shall be covered.
10. All development of the site must be in accordance with plans as approved by this decision and with the By-Laws of the Town of Acton.
11. Any changes in this plan shall be approved in writing by the Board of Selectmen prior to actual construction. Upon completion of the project, an as-built plan shall be submitted to the Board of Selectmen for written approval. A copy of the plan shall be submitted to the Building Commissioner.
12. There shall be no further subdivision or development of the site without further site plan approval.

13. No building or structure authorized by this site plan shall be occupied or used and no activity authorized upon the land which is the concern of this site plan approval shall be commenced until a Certificate of Compliance as specified in Section XII.A.3. of the Zoning By-Law has been issued.

12. With the exception of Conditions #5, #6 and #8, the conditions of this site development plan approval shall be carried into effect and completed by the applicant within one year following the date of approval and prior to issuance of an Occupancy Permit.

Very truly yours,
BOARD OF SELECTMEN

by:

Pamela P. Resor
Pamela P. Resor, Chairman

cc: Assessor's Office
Board of Health
Building Commissioner
Conservation Commission
Engineering
Fire Dept.
Planning Board
Town Clerk
Water District

2625B

Restaurant Special Use Permit #11/14/91-335; Amendment #3/9/83-230
Bean's Inc.
342 Great Road (TAVERNIER)

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Decision of the Board of Selectmen (hereinafter the Board) on the petition of Bean's Inc. (hereinafter the Petitioner) for the property located at 342 Great Road, Acton, Massachusetts. Said property is shown on Acton Town Atlas Map D4, Parcel 28.

This Decision is in response to an application submitted to the Board on November 14, 1991 by the Petitioner for a Special Permit under Section 10.3 of the Acton Zoning Bylaw (hereinafter the Bylaw) to establish a restaurant. This permit will also amend site plan Special Permit #3/9/83-230.

After causing notice of the time and place of the public hearing and the subject matter thereof to be published, posted and mailed to the Petitioner, abutters and other parties in interest as required by law, the hearing was called to order on January 7, 1992 at 7:45 P.M. in the Acton Town Hall, Acton, Massachusetts. Board members Norman D. Lake, Nancy E. Tavernier, F. Dore' Hunter and Anne B. Fanton were present through the hearing.

The Petitioner was represented by Mr. David Beardsley. The record of the proceedings and submissions on which this permit is based may be referred to in the Office of the Town Clerk or the Office of the Board.

Submitted for the Board's deliberation, prior to the close of the hearing, were the following exhibits:

Exhibit I

A properly executed application for a restaurant Special Permit; a letter dated May 24, 1991 from Prendergast Development Corp. to the Building Commissioner; a plan showing the layout of the restaurant.

Exhibit II

A request dated July 29, 1991 from the Town Manager for comments; letter to Mr. Beardsley dated November 18, 1991 from the Town Manager's office; letter dated November 18, 1991 from the Town Manager's office to the Beacon; Notice of Hearing; Certified Abutters List dated April 25, 1991.

Exhibit III

Interdepartmental Communication (IDC) from the Building Commissioner to the Board dated December 27, 1991; IDC from the Health Director to the Building Commissioner dated November 21, 1991; IDC from Municipal Properties Director to the Building Commissioner dated November 22, 1991; IDC from Roland Bartl to Don P. Johnson dated November 20, 1991.

FEB 20 1992

Restaurant Special Use Permit #11/14/91-335; Amendment #3/9/83-230
Bean's Inc.
342 Great Road (TAVERNIER) 2

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Based upon its review of the exhibits and record of the proceedings the Board under the Bylaw found that:

Findings and Conclusions

1. The restaurant use is appropriate for the site in question.
2. Condition H of Site Plan Special Permit #3/9/83-230 prohibits wet uses. This condition was added to the decision at the request of the Board of Health because of the capacity of the septic system (2104 gallons per day). The Board of Health now feels that instead of prohibiting wet uses the allowed uses should be limited to the system size. The use of all buildings is already limited to the size of the septic system and it would be redundant to limit uses to the septic size.

Therefore it is appropriate to eliminate Condition H.

3. The site plan Special Permit #3/9/83-230 remains in full force and effect with the exception of Condition H which is heretoforth removed.
4. The use as proposed is consistent with the Master Plan, is in harmony with the purpose and intent of this Bylaw and will not be determined or injurious to the neighborhood.

Therefore the Board voted to GRANT the requested Special Permit and site plan Special Permit #3/9/83-230 is amended so as to remove Condition H with the benefit of the following limitations.

Limitations

- 2.1 The restaurant shall be run according to the submitted documents.
- 2.2 This decision applies only to the requested Special Permit, other permits or approvals required by the Bylaw, other governmental boards, agencies or bodies having jurisdiction shall not be assumed or implied by this decision.
- 2.3 Effective Date of Special Permit - No special permit or any modification, extension or renewal thereof shall take effect until a copy of the decision has been recorded in the Middlesex County South District Registry of Deeds. Such decision shall bear the certification of the Town Clerk that 20 days has elapsed after the decision has been filed in the office of the Town Clerk and no appeal has been filed, or that if such an appeal has been filed, it has been dismissed or denied.

Restaurant Special Use Permit #11/14/91-335; Amendment #3/9/83-230
Bean's Inc.

342 Great Road (TAVERNIER)

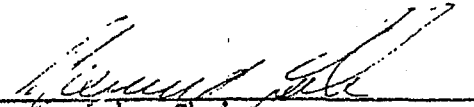
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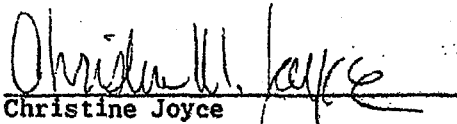
Appeals

Any person aggrieved by this Decision may appeal pursuant to the General Laws, Chapter 40A, Section 17 within 20 days after the filing of this Decision with the Acton Town Clerk.

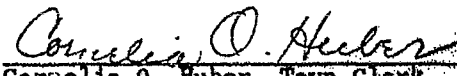
Witness our hand this 18th day of February, 1992


Norman Lake, Chairman

I, Christine Joyce, hereby certify that this is a true copy of the decision of the Board of Selectmen.


Christine Joyce
Recording Secretary

February 19, 1992
Date filed with Town Clerk


Cornelia O. Huber, Town Clerk

TO WHOM IT MAY CONCERN: This is to certify that the 20 day appeal period on the decision of Bean's Inc. has passed and there have been no appeals made to this office.

Date

Cornelia O Huber, Town Clerk

cc: Petitioner - Certified Mail #298683015
Building Commissioner
Planning Board
Engineering
Conservation
Board of Health
Town Clerk
Planning Boards - Littleton, Westford, Maynard, Carlisle, Concord,
Boxboro, Stow, Sudbury

(744)

RECEIVED & FILED

DATE

TOWN CLERK, ACTON